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| APPLICATION NO.                        | FILING DATE | FIRST NAMED INVENTOR  | ATTORNEY DOCKET NO.      | CONFIRMATION NO. |
|--|-------------|---|--------------------------|------------------|
| 09/992,266                             | 11/05/2001  | Jayakumar Jayakumar   | 081862.P260              | 7694             |
| 7590                                   | 02/14/2007  | Sanjeet K. Dutta<br>BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP<br>Seventh Floor<br>12400 Wilshire Boulevard<br>Los Angeles, CA 90025-1026 | EXAMINER<br>WONG, WARNER | ART UNIT<br>2616 |
| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE   | DELIVERY MODE   |                          |                  |
| 3 MONTHS                               | 02/14/2007  | PAPER   |                          |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

|                              |                 |                  |
|------------------------------|-----------------|------------------|
| <b>Office Action Summary</b> | Application No. | Applicant(s)     |
|                              | 09/992,266      | JAYAKUMAR ET AL. |
| Examiner                     | Art Unit        |                  |
| Warner Wong                  | 2616            |                  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 06 October 2006.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-40 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 21-40 is/are allowed.  
 6) Claim(s) 1-20 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

**Regarding independent claims 11 and 16**, as disclosed in paragraph [0014], the medium is a propagation medium, i.e. carrier wave, thus making the claims nothing more than a signal. Thus, claims 11-20 are non-statutory because the patent protection sought by the claimed invention is for a signal.

**Regarding claims 1 and 6**, they are written in a form of "method". However, as evidenced in claims 11 and 16, independent claims 1 and 6 are claiming computer/software instructions in the form of a method. Note that claims 1 and 6 closely mirror claims 11 and 16 respectively in almost all respects except for the preamble, and in light of the specification they are nothing more than the instructions of the application. Thus, independent claims 1 and 6 are directed to an abstract idea, i.e. computer program, and lack descriptive language in which the transformation steps yield a useful, concrete and tangible result.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claim 1** is rejected under 35 U.S.C. 103(a) as being unpatentable over Mauger (6,882,643) in view of Lundback (6,912,590).

Mauger describes a method/system/router comprising: "generating an MPLS packet from the ATM packet, wherein the ATM packet comprises an ATM header and a control word" and "routing the MPLS packet over an MPLS network" (ATM over MPLS option 1, and col. 10, lines 57-60, 45-47, "MPLS network.. provides a tunneled transport capability over which the ATM service is provided transparently via ATM connection control..", where an ATM AAL5 cell/packet comprises an overall header with an Access Control field (control word of fig. 4) and rest of header fields ([enhanced] ATM header of fig. 4)).

Mauger fails to show what Lundback describes as a related art for routers in IP networks, comprising: "receiving an AAL5 CPCS-SDU" and "encapsulating the AAL5-CPCS-SDU into AAL5 enhanced packet" (col. 2, lines 54-61, "To transport IP packets over ATM, the ATM Adaptation Layer 5 (AAL5) is often used.. Encapsulation of IP packets into AAL5 SDU is specified in the Internet Engineering Task Force (IETF) Request For Comment (RFC) number 1483", where IP packets are segmented into ATM payloads called AAL5 CPCS-SDU.)

It would have been obvious to one with ordinary skill in the art at the time of invention to specify the ATM technology of Lundback into include specifically the AAL5 support as in Mauger.

The motivation for combining the teaching is that it allows IP packets to be transported over ATM AAL5 sublayer (Lundback, col. 2, lines 54-61).

***Response to Arguments***

3. Applicant's arguments filed April 4, 2006 have been fully considered but they are not persuasive.

From page 11, lines 20 (last line) to page 12, line 2, the applicant argues regarding **claim 1** that from the amendment, the combination of Mauger and Lundback fail to describe that the MPLS packet contains both an ATM header and a control word. The examiner respectfully disagrees.

The examiner understands from page 11 of the applicant's specification and fig. 4 that the enhanced AAL5 packet consists of a typical 48-byte ATM payload 430, an enhanced ATM header 431, and other control fields such as the label stack 410 and the control word 420. Next, the examiner compares fig. 4 with a typical ATM cell, comprising a 48-byte payload and a 5-byte ATM header, where the ATM header consists of control fields, such as "Access control field".

From this, the examiner believes that it is reasonable to justify that the combination of applicant's self-defined enhanced ATM header 431, label stack 410 and control word 420 of fig. 4 equate to a conglomerate header, thus able to equate the broad claim language of "an ATM header" and a "control word" as the current ATM header's "other control fields in the header" and the "Access control field" respectively.

***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Fraser (US 6,707,819), Ashwood-Smith (US 2005/0008020).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Warner Wong whose telephone number is 571-272-8197. The examiner can normally be reached on 6:30AM - 3:00PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing Chan can be reached on 571-272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



WING CHAN  
SUPERVISORY PATENT EXAMINER

Warner Wong  
Examiner  
Art Unit 2616

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